

REMARKS

Claims 1-18, 20-37, and 39-46 are pending in the present Application. Claims 1, 26, 45, and 46 are being amended. Support for these amendments can be found at least on page 2, lines 26-28; page 10, lines 3-6; and page 10, lines 9-16 of the Specification, as originally filed. No new matter is being introduced by way of these amendments.

§ 112 Rejections

In the Office Action, claims 45 and 46 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Applicants' amended claim 45 recites in part, "comparing the collected short-term activity data with the long-term activity data of the viewership profile, transmitted from the life-cycle manager server to the promotion agent as a compressed version of the long-term activity data, in order to determine a type of individual presently interacting with the network device," where the underlined text are elements added by way of this Amendment.

Applicants direct the Office to page 10, lines 9-16 of the Specification as filed, which is reproduced below.

Referring to FIG. 3B, the system 100 is also able in real time to compare short term viewership activity 420 associated with the set top box 10 with long term activity 430 as obtained in the process just described above. The short term activity 420 is collected by the promotion agent 310, and a compressed version of the long term activity is transmitted from the life cycle manager server 250 to the promotion agent 310. In a state 440, the promotion agent 310 then correlates the short term activity 420 with the long term activity 430 to establish the type of individual watching a program on a given set top box at a given moment.

In this way, Applicants' amended claim 45 compares short-term viewership activity with long-term viewership activity which has been transmitted from the life-cycle manager server to the promotion agent as a compressed version of the long-term viewership activity. By allowing the set-top box to compare the short-term viewership activity with the long-term viewership activity (which has been transmitted in compressed form), Applicants' amended claim 45 establishes or otherwise determines the type of individual watching a program at a given moment at the set top box itself.

Applicants respectfully submit claim 45 as amended overcomes the 112, first paragraph rejection and respectfully request the claim be allowed. Applicants' amended claim 46 recites similar limitations and as such, should be allowed for similar reasons.

§ 103 Rejections

In the Office Action, claims 1-18, 20-37, and 39-46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Maissel *et al.* (U.S. Patent Number 6,637,090, hereinafter "Maissel") in view of Grauch *et al.* (U.S. Patent Number 66,983,478, hereinafter "Grauch") and Barrett *et al.* (WO 01/22731 A1, hereinafter "Barrett").

Applicants' amended claim 26 recites in part:

informing the network device of a type of individual on which distribution of promotions to the network device is based, by forwarding the viewership profile to the network device, the viewership profile including long-term viewership activity data of the network device...

where the underlined text are elements now added by way of this Amendment.

Briefly, Applicants' amended claim 26 informs a network device, such as a set-top box, of a type of individual or viewer on which distribution of promotions to the network device is based, by forwarding a viewer profile to the network device because (i) the promotions are distributed based on viewer profiles (Specification page 2, line 25 - page 3, line 3) and (ii) the viewer profile includes the type of individual (Specification page 10, lines 5-8). As such, the network device itself is able to determine a particular viewer to target as well as determine the success of a promotion targeted at a particular viewer, even when multiple viewers are associated with a single network device. Specification page 12, line 7-16 referring to FIG. 5.

In stark contrast, the Maissel, Grauch, and Barret combination ("combination") merely describes filtering a program schedule received from a TV network by sending a viewing preference profile from a profile storage unit to a program schedule customization apparatus. *See* Maissel, column 1, line 48 - column 12 line 34; and column 15, line 56 - column 16 line 4, referring to FIG. 3. The received program schedule is filtered with the sent viewing preference profile so that the only programs of a resulting customized program schedule are those that have the same program characteristics as the viewer preference profile. Applicants respectfully submit that the combination's filtering a program schedule is not the same as Applicants'

“informing the network device of a type of individual on which distribution of promotions to the network device is based by forwarding the viewership profile to the network device,” recited in Applicants’ amended claim 26.

Moreover, there is no need for the Maissel, Grauch, and Barret combination to teach informing the set-top box of a type of individual on which the program schedule distributed to the set-top box is based because, the program schedule received by the set-top box from the TV network in these systems is not based on an individual. Instead, a single, non-customized program schedule is distributed to all set-top boxes regardless of whether or not an individual set-top box stores a viewing preference profile that is the same or different as viewing preference profiles stored by other set-top boxes. Each set-top box, having now received the single, non-customized program schedule, then customizes the received program schedule so that a customized program schedule now has programs which share the same program characteristics as that of the viewing preference profile stored by each individual set-top box. As such, the program schedule received by each individual set-top box is not based on an individual, and is not capable of being changed when a different individual begins using the set-top box.

In fact, if a program schedule received by each set-top were based on an individual, then the step of filtering the program schedule to customize the program schedule would be redundant and inefficient use of resources. As such, the Maissel, Grauch, and Barret combination actually teaches away from and discourages Applicant’s informing a network device of a type of individual on which distribution of promotions to the network device is based, by forwarding a viewership profile to the network device, where the viewership profile includes long-term viewership activity data of the network device, as recited in now amended claim 26.

Accordingly, Applicants respectfully submit that the Maissel, Grauch, and Barret combination does not teach each and every element of Applicants’ claim 1 or at the very least teaches away from Applicants’ amended claim 26. Applicants’ respectfully request that the claim be allowed.

Independent claims 1, 45, and 46 as amended recite similar limitations as claim 26, and as such, should be allowable for similar reasons.

Dependent claims 1-18, 20-25 depend from claim 1 and dependent claims 27-37, 39-44 depend from claim 26. These claims should be allowable for the same reasons as the claims from which they depend.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims that will be pending after entry of this Amendment, claims 1-18, 20-37, and 39-46, are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

David J. Thibodeau, Jr.

Registration No. 31,671

Telephone: (978) 341-0036

Facsimile: (978) 341-0136

Concord, MA 01742-9133

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